HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.4614 OF 2001

Between:

A.Narasimha Murty

. . .Petitioner

AND

Sri Brughumaharshi Weavers Cooperative
Production and sale Society Limited and another

. . .Respondents

:: ORDER ::

Counsel for the petitioner : Shri S.Sriramachandra Murty

Counsel for the respondents : Government Pleader for
Cooperation

Dated: 25th July, 2007

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This petition is directed against order dated 12.04.2000 passed by Assistant Director, Handlooms and Textiles, Vizianagaram under Section 19 of Andhra Pradesh Cooperative Societies Act, 1964 whereby he cancelled the membership of the petitioner of Shri Brughumaharshi Weavers Cooperative Production and Sale Society Limited (for short 'the society').

The petitioner belongs to the family of weavers. He became a member of the society in 1983. The society has been supplying yarn to the petitioner, which is used for making clothes and, in turn, the petitioner supplies clothes to the society. In 1996, the petitioner made a complaint in the matter of non-giving of financial assistance. As a counterblast, Secretary of the society stopped supplying of yarn to him and this continued to be the position despite his representations to the higher authorities. On 03.11.1997, respondent No.2 issued notice proposing cancellation of the membership of the petitioner on the ground that he does not possess the prescribed eligibility qualifications. The petitioner filed reply dated 23.11.1997. After two years and five months, respondent No.2 passed the impugned order, which reads as under:

CERTIFICATE OF POST

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ORDERS ISSUED UNDER SECTION 19 OF THE A.P.C.S. 7 of 1964.

Rc.No.824/97 B Dt. 12-4-2000

Present:-

Asistant Director
Handlooms & Textiles

Vizianagaram.

A notice Rc.No.824/97 B, dt.3-11-97 was issued to Sri Gov.274 Ammujuri Narasimha Murthy who is continuing as a Member of Sri BrughuMaharshi Weavers Coop.production Sales society Ltd……to give opportunity to show cause as to why he/she should not be declared as ineligible to continue as member of the said society, as he/she is found to have not possessed the qualifications required to be eligible a member of the said society.

The individual has not submitted his/her explanation with in the time stipulated.

In his/her written explanation, he/she explained that though he is not residing in the area of operations of the society, he/she explained that he/she is having loom in village which is in the area of operation of the society. On enquiry it is found that he/she does not possess any loom and thus he/she is found to be ineligible to continue as a member of the society and thus the explanation occurred is not tenable.

Now therefore in exercise of the powers conferred on me under sub section 2(B) or Sec.19 of A.P.C.S. Act 7 of 1964, the undersigned hereby declares that Sri Ammujuri Narasimha Murty a member of Sri Brugu Maharshi weavers Co.op. Production Sales society Ltd,

LTD No.M692 Kothapeta is ineligible to continue as a member of the said society and therefore his/her membership in the said society shall stand removed from the rolles of the membership of the society with immediate effect.

(Given under my hand and seal on this 1997).

To
Sri/Smt.
Ammujuri Narasimha Murthy,
Kothapeta, Govindapalem P.O.,
Ramilli Mandal,
Vizag District.

Asst. Director
Hand-Loom & Textile,
VIZIANAGARM.

Copy to President, Sri BhruguMaharshi Weavers Coop.
Production and sale society Ltd LTD No.M692 Kothapeta

with a request to remove the membership of the above member and refund the share capital of the concerned member or keep it under suspense account.

For Sri Bhrugu Maharshi Weavers
Co-op. Production and Sales Society
Ltd., No. M 692 Kothapeta.

President

I have heard the learned counsel for the parties. In my opinion, the impugned order is liable to be quashed on the ground of total non-application of mind by the concerned officer. The Assistant Director was required to consider the petitioner's reply to the show cause notice in a correct perspective and then decide whether or not he satisfies the conditions of eligibility. However, instead of doing so, the Assistant Director mechanically passed the order of disqualification. He simply filled the blanks and declared that the petitioner is ineligible to continue as a member of the society. While doing so, the officer concerned did not even score out what is irrelevant in the printed format of the order. Therefore, by applying the ratio of the Supreme Court's judgment in **Barium Chemicals Limited v. Company Law Board**[1], I hold that the impugned order is vitiated by an error of law apparent on the face of the record.

In the result, the writ petition is allowed. Order dated 12.04.2000 is declared illegal and quashed. As a consequence, the membership of the petitioner shall stand automatically restored and he shall be entitled to all the benefits, which are admissible to a member of the society.

G.S.SINGHVI, CJ

25th July, 2007

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[1] AIR 1967 SC 295